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8 UNITED STATES DISTRICT COURT FOR THE
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 UNITED STATES OF AMERICA, on behalf of
12 its agencies, DEPARTMENT of the NAVY,
13 THE DEFENSE THREAT REDUCTION
14 AGENCY, THE UNITED STATES NUCLEAR
15 SECURITY ADMINISTRATION, and the
16 FEDERAL BUREAU OF INVESTIGATION,

17 PLAINTIFFS,

18 KITSAP COUNTY and the KITSAP COUNTY
19 DEPARTMENT OF EMERGENCY
MANAGEMENT,

20 DEFENDANTS.

CASE NO.

DECLARATION OF MS. DONNA
HILTON, NAVY REGION
NORTHWEST FREEDOM OF
INFORMATION ACT
COORDINATOR

21 **DECLARATION OF DONNA HILTON**

22 1. (U) I am the Freedom of Information Act (FOIA) Coordinator for Navy Region
23 Northwest (NRNW). I have held this position since October, 2004. In this position, I report directly
24 to the senior uniformed attorney for NRNW. My responsibilities include receipt, coordination, and
25 response of all FOIA related matters for NRNW. I am the individual responsible for assembling the
26 documents that comprise the administrative record in this case, including the plaintiff's requests for
27 Navy records made pursuant to the Washington Public Records Act (PRA) to the Kitsap County
28 Department of Emergency Management (Kitsap Emergency Management).

1 2. The statements made in this declaration are based upon my personal knowledge or
 2 upon information available to me in my official capacity and are true and correct to the best of my
 3 knowledge.

4 3. The purpose of this declaration is to provide the Court with a description of the actions
 5 taken by the Navy, in coordination with the Defense Threat Reduction Agency (DTRA), the United
 6 States National Nuclear Security Administration ("NNSA"), and Federal Bureau of Investigation
 7 ("FBI", collectively, the "Federal Agencies" or "United States"), in response to the PRA for records
 8 submitted to the County Emergency Management.

9 4. NRNW provides shore-based services, enabling the Fleet and supported commands to
 10 focus on their mission. The effective management of our installations is integral to delivering
 11 essential operations, facilities, and quality of life programs. Additionally, NRNW operates a Region
 12 Operations Center that functions as a component of the National Incident Management System for
 13 coordinated responses to natural disasters and other events. In this capacity, NRNW plays an active
 14 role in the NUWAIX under the National Response Framework. NUWAIX provides a mechanism for
 15 exercising the United States' interagency, state, and local cooperation and collaboration in response
 16 to radiological accidents or incidents.

17 5. Between 2013 and 2015, the Federal Agencies conducted various Nuclear Weapons
 18 Accident Incident Training Exercises ("NUWAIXs") at Navy Base Kitsap, in Bangor, Washington.
 19 Records containing sensitive national security information were shared with the County Emergency
 20 Management as part of these NUWAIXs.

21 6. Introductory material provided to the state and local emergency planning agencies in
 22 connection with a 2014 training exercise, provided as follows:

23 The NRNW Mini-NUWAIX 2014-01 is an unclassified exercise. Due to
 24 the nature of the event, some exercise material and player discussions,
 25 however, in the Region Operations Center and site locations could be
 26 classified SECRET. All precautions must be taken to safeguard classified
 27 information. Also there may be some exercise material intended for the
 28 exclusive use of exercise planners and evaluators, but players may view
 other materials that are deemed necessary to their performance. . . .
 All Exercise participants should use appropriate guidelines to ensure
 proper control of information within their areas of expertise and protect
 this material in accordance with current
 DOD/NORTHCOM/FBI/DOE/FEMA directives.

1 *Public release of exercise materials to third parties is at the*
2 *discretion of NRNW.*

3 (TAB 1)

4 7. On January 15, 2015, Glen Milner ("Milner") submitted a request to Kitsap
5 Emergency Management under the Washington State Public Records Act ("PRA"), RCW 42.56.001
6 et seq., seeking the following:

- 7 *all records in use since January 1, 2012 addressing the consequences of a radiological
8 accident or similar event at Naval Base Kitsap-Bangor and other U.S. Navy facilities;
9 *all records in use since January 1, 2012 regarding emergency response planning
10 involving Naval Base Kitsap-Bangor and other U.S. Navy facilities;
11 *all records regarding Emergency Protection Zones, Emergency Protective Zones, EPZ, or
12 similar zones or areas for U.S. Navy facilities;
13 *the Nuclear Weapons Accident Response Plan (NW ARP) and similar and related
14 records;
15 *the Federal Radiological Monitoring and Assessment Plan (FRMAP) and Federal
16 Radiological Emergency Response Plan and similar and related records;
17 *all records related to the Radiological Response Team or similar response organization;
18 *all records regarding the public release or dissemination of the above listed records;
19 *Map Your Neighborhood (MYN) records related to 16159 Clear Creek Rd. NW in
20 Poulsbo.

21 (TAB 2)

22 8. On April 29, 2015, the Kitsap County Prosecuting Attorney's Office sent a letter to
23 NRNW notifying the Navy about Milner's records request and advising that the responsive records
24 would be released no later than May 29, 2015, unless "one or all" of the agencies obtained a court
25 order enjoining the release of the requested records. (TAB 2)

26 9. On April 29, 2015 NRNW notified other federal agencies with potential equities in the
27 documents including the Department of Energy (DOE), Federal Bureau of Investigation (FBI), U.S.
28 Northern Command, Strategic Systems Programs (SSP), Defense Threat Reduction Agency (DTRA),
29 Naval Reactors (NR) and Federal Emergency Management Agency.

30 10. On May 13, 2015 NRNW coordinated with County to initiate coordination on the
31 response.

32 11. On May 20, 2015 NRNW conducted a brief review of a subset of the 6000 pages held by
33 the County.

34 12. On May 21, 2015 NRNW requested County withhold all documents as review of the 6000
35 pages was commencing. County provided a DVD of the documents to facilitate the review. (TAB 3)

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2 13. The DVD contained 6000 pages consisting of more than 300 documents, including
3 PowerPoint presentations, reports, exercise plans and scenarios, spreadsheets listing time lines for
4 scenarios, contact lists, minutes of planning meetings, and emails. An initial review of these records
5 confirmed some of the documents contain sensitive national security information.

6 14. On May 21-22, 2015, NRNW forwarded copies of the documents to the interested Federal
7 Agencies, including NNSA, FBI, and DTRA for review by their subject matter experts.

8 15. On May 26, 2015, after consultation with NRNW, the County agreed to extend the
9 deadline for the Navy or one of the other agencies to obtain a court order enjoining the release until
June 12, 2015. (TAB 4)

10 16. On June 26, 2015, the federal agencies identified seven (7) documents that required no
11 redaction that could be released to Mr. Milner and provided these documents to the County. (TAB 5)

12 17. Also in June 2015, the United States Attorney's Office for the Western District of
13 Washington ("USAO") was asked by the Federal Agencies to become involved. In an effort to
14 narrow the issues in dispute, the Federal Agencies prepared an index of the documents which was
15 provided to Milner.

16 18. On June 26, 2015, Mr. Milner identified forty-nine (49) documents the did not need to
17 be provided under his WPRA request. Those documents were: 5, 14, 22, 27, 89, 90, 91, 192, 194, 206,
209, 210, 216, 217, 223, 224, 226, 230, 240, 241, 242, 244, 245, 246, 247, 248, 249, 264, 265, 266, 277,
279, 291, 312, 318, 319, 322, 325, 326, 332, 334, 335, 339, 340, 341, 342, 346, 350, and 354. (TAB 5).

19 19. On June 30, 2015, the County produced 98 pages of records to Milner that the Federal
20 Agencies had determined did not contain any protected material and informed Mr. Milner that it
21 hoped to complete the production by August 14, 2015. (TAB 5)

22 20. The Federal Agencies then focused on identifying any records that did not contain
23 sensitive national security information.

24 21. On July 10, 2015, the Federal Agencies provided twenty-seven (27) additional documents
25 to County that could be released without redaction. (TAB 6)

26 22. On September 22, 2015, the Federal Agencies provided the County a draft *Vaughn*
27 Index listing the documents which needed to be withheld either in whole or in part (i.e., disclosed

1 || with redactions), together with a DVD with the documents that the Federal Agencies had determined
2 || could be released in redacted form. (TAB 7)

3 23. In follow-up to the Vaughn index, the USAO sent the County a letter brief providing a
4 more detailed explanation of the basis for the withholding of information. (TAB 8)

5 24. The County agreed to review these materials and respond to the Federal agencies
6 exemption claims.

7 25. On November 12, 2015, while waiting for the County to comment on their proposed
8 withholdings, and after obtaining the County's agreement, the Federal Agencies provided Milner with
a set of the proposed redactions and cleared records, and requested his comments. (TAB 9)

9 26. On November 17, 2015, Milner objected to the format of the documents he had
10 received and requested additional details on the *Vaughn* Index. (TAB 10)

11 27. The Federal Agencies agreed to change the format of the redactions and revise the
12 *Vaughn* Index to address Milner's requests.

13 28. On November 30, 2015, while the Federal Agencies were attempting to prepare
14 updated redactions and an updated *Vaughn* Index to address Milner's requests, and without ever
15 addressing the Federal Agencies' substantive exemption claims, the County sent the Federal Agencies
16 a third- party notice informing them that the County had decided to unilaterally release the federally
17 protected sensitive national security information records to Milner, and to Ed Friedrich, a reporter
18 from the Kitsap Sun who had submitted a similar request to the County on October 19, 2015, if the
19 Federal Agencies did not by December 16, 2015 obtain a Court Order enjoining the County from
doing so. (TAB 11)

20 29. Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury under the laws of the
21 United States of America that the statements made in this declaration are based upon my personal
22 knowledge or upon information available to me in my official capacity and are true and correct to the
23 best of my knowledge.

24 Executed the 14th day of December, 2015, at Silverdale, Washington.

Donna Hilton
Donna Hilton